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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy

Addendum

Report of the mission to Rwanda on the issues of violence against women in situations of armed conflict

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Introduction

1. At the invitation of the Government of Rwanda, the Special Rapporteur on violence against women visited Kigali, Ntarama, Butare, Gikongoro, Gitarama and Taba in Rwanda from 27 September to 1 November 1997 to study the issue of violence against women in wartime and in post-conflict situations. The Special Rapporteur also visited the International Criminal Tribunal for Rwanda (ICTR) in Arusha, United Republic of Tanzania, from 23 to 25 September 1997.

2. The Special Rapporteur would like to express her appreciation for the cooperation and assistance extended to her by the Government of Rwanda, and in particular to H.E. Ms. Aloysia Inyumba, Minister for Gender, Family and Social Affairs, which enabled the Special Rapporteur to meet with representatives of all relevant sectors of society and to obtain the necessary information and documentation to be able to report to the Commission on Human Rights in an objective and impartial manner.

3. The Special Rapporteur is very grateful for the efficient cooperation and support provided by Mr. Simon Munzu, Chief a.i., United Nations Human Rights Field Operation in Rwanda (HRFOR), and his staff in ensuring a substantively and logistically successful visit. Furthermore, the Special Rapporteur would like to express her special thanks to Ms. Urusaro Uwagaga Alice Karekezi, Independent Monitor on Gender-Related Crimes for the International Tribunal for Rwanda, who worked tirelessly to ensure that the Special Rapporteur was able to meet with non-governmental organizations working in the area of human rights of women and take the testimonies of many women victims of violence.

4. In Rwanda, the Special Rapporteur focused on gathering information mainly on the following issues:

(a) Violence against women during the genocide;

(b) The status of women post-genocide;

(c) Progress achieved in punishing perpetrators at the national and international levels;

(d) Conditions of women in detention.

5. During her mission, the Special Rapporteur met with high-level government representatives, including the Minister for Gender, Family and Social Affairs, the Minister for Foreign Affairs, the Minister of Justice, the Minister of Health and the Attorney-General, as well as with officials at the Ministry of Internal Affairs, Communal Development and Resettlement. The Special Rapporteur also met with non-governmental and women's organizations and took the testimonies of 21 women victims of violence. In addition, the Special Rapporteur visited Kigali Central Hospital, Kigali Central Prison, Butare Central Prison and a cachot or detention centre in Taba, as well as the HRFOR branch office in Butare.

6. The Special Rapporteur held meetings with the Deputy-Prosecutor at the Office of the Prosecutor of the ICTR and his staff, as well as with

representatives of the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Refugees (UNHCR), and other United Nations agencies present in Rwanda.

7. At the International Criminal Tribunal for Rwanda in Arusha, the Special Rapporteur observed the testimony of witness "JJ" in the case against Jean-Paul Akayesu, the first trial containing sexual violence in the indictment. The Special Rapporteur also met with the President of the Court, several judges, the Registrar and staff at his office, as well as other ICTR staff.

8. The Special Rapporteur would like to express her heartfelt thanks to all the women who agreed to tell their very personal stories to her, so that she could attempt to understand at least some of the suffering they had lived through. The Special Rapporteur was extremely touched and impressed by the courage demonstrated by all the women she met and by their determination to rebuild a better future for Rwanda.

9. For purposes of definition, the Special Rapporteur would like to recall that according to article II of the Convention on the Prevention and Punishment of the Crime of Genocide, "genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

"(a) Killing members of the group;

"(b) Causing serious bodily or mental harm to members of the group;

"(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

"(d) Imposing measures intended to prevent births within the group;

"(e) Forcibly transferring children of the group to another group."

The case of "JJ" 1/

10. "So never ask me again what a Tutsi woman tastes like": a statement purported to have been made by Jean-Paul Akayesu, former bourgmestre or mayor of the commune of Taba, one of the accused before the International Criminal Tribunal for Rwanda.

> "They threw us into the building where they were drinking and smoking marihuana. A young man rushed at me. He led me to the corner of the room. He undressed and put his clothes on the ground. I asked him what he was doing, he said I had no right to ask him anything. In fact, he did humiliating things to me even though I was a mother. When he finished the first time, he started a second time. I was so exhausted. I was almost insensitive. He left me and climbed into the area where other persons were being raped. I could hear the cries of young girls but I could not stand up to see. While I was recovering, a second person came and made me lie down again. He undressed. When he pulled out his penis, he still had his underwear on. He also raped me.

By now I was practically dead. Maybe he realized I was going to die since he left after he had finished. A third person came while I was there. When he saw me rolling on the ground he put on a condom. When he was finished I thought I was going to die for sure. I could not put my thighs together anymore. When they finished they went away .... After the meeting, the Interahamwe made us return to the Cultural Centre. When we arrived inside, they did the same thing they did before. They raped us again. I was raped twice .... The rapes were public, they raped us in front of the children. The rapists were young rascals. Try to imagine a mother raped by young boys."

I. GENERAL BACKGROUND

11. This report is concerned with the genocide which took place in Rwanda in April 1994 and its aftermath. The political and historical forces which led up to the genocide are complex and there cannot be a detailed account in a fact-finding report of this kind. The history of the conflict is not only complex, but it is deeply contested by the parties to the conflict.

12. Essentially, there are two schools of thought. Proponents of the first school, which may be referred to as the "primordial school", believe that there have always been two distinct ethnic groups in Rwanda, namely, the Hutus, "the sons of the soil" and the majority population, and the Tutsis, who were invaders from northern Africa. This school sees as its mission the destruction of Tutsi domination in the country and its replacement with a Hutu hegemony. The second school of thought sees all existing divisions between ethnic groups as a product of the nineteenth century and colonial rule. It is argued that Tutsis and Hutus share a common language, culture and religion and that the racial divide was accentuated by colonial powers who favoured the Tutsis in the early phases of colonialism. This resulted in what had been more generally an occupational divide - Tutsis were cattle herders and Hutus were farmers - into a racial divide. According to this school of thought, Hutus and Tutsis are one group and the problem is one of class, not race. This school argues against the recognition of ethnic differences and wants public policy to be formulated without fear of or favour to any ethnic group, with merit as the criterion for advancement.

13. Historians of non-Rwandan origin see the truth as being somewhere in between. 2/ The two-century-old monarchy of the Nyiginya, Tutsi Clan, and its patronage system did create a marked difference between Tutsis and Hutus, even before the arrival of colonial powers, but with more fluid identities. There was intermarriage, social mixing, and the categories were not very rigid or exclusive. The colonial historiography, which attempted to identify Tutsis as being of Egyptian or Ethiopian origin, i.e. a Hamitic people, providing a link between the white and the black population, resulted in a sharp racial divide. The colonial powers, especially the Belgians of the nineteenth and early twentieth century, were close to the Tutsi elite and governed through them.

14. After the Second World War, however, imbued with notions of socialism and majoritarian democracy, the colonial powers appear to have changed allegiance and sponsored a Hutu rebellion. In 1959, this led to the first massacres of the Tutsi population, causing many of them to flee. For Hutus,

1959 was a socialist and majoritarian rebellion. For Tutsis, it was the beginning of ethnic fratricide. After 1959, Tutsis' identity cards were retained and discrimination against Tutsis in the field of education and the civil services was practised. Hutu hegemony, which also marked the regime of President Habyarimana in the 1970s prevailed virtually uncontested until the end of the 1980s when the status quo became increasingly challenged by opposition parties and the armed rebellion of the Tutsi-led RPF (Rwandan Patriotic Front) operating out of Uganda and other neighbouring countries such as Burundi, the United Republic of Tanzania and then Zaire.

15. The increasing threat from the RPF and opposition groups within the country led to a ceasefire in 1991. From that period until 1994 twin processes were at work. On the one hand, encouraged by the Organization of African Unity (OAU) and the United Nations, the Government negotiated with the RPF and opposition leaders. This culminated in the Arusha Accords of 1993 which were signed in August of that year. The Arusha Accords created a framework for democratic governance, mediated by the OAU, the United Nations, Tanzania, Belgium and Germany. The Accords consist of five protocols: a protocol on the rule of law, one on power-sharing, one on the repatriation of refugees, one on the integration of the RPF with the armed forces and one on miscellaneous issues. As stipulated in the agreement, the United Nations established a United Nations Assistance Mission in Rwanda (UNAMIR) to oversee the implementation of the Accords, and in particular protocol four, the integration of the armed forces. 3/

16. However, at the same time that it was speaking peace and reconciliation, Habyarimana's regime was preparing for the genocide. Isolated incidents and massacres throughout the period 1991 to 1994 occurred without provoking reactions from the international community. An International Commission of non-governmental organizations and human rights groups, however, warned of impending doom in 1993 and the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions also warned of the growing possibility of mass killings. 4/ Although the killings began the day after President Habyarimana's helicopter was shot down on 6 April 1994, the preparations for genocide were almost complete by then.

17. The details of the preparations have been spelled out in other United Nations documents, including in the reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Rwanda, as well as in publications by non-governmental organizations such as Africa Rights, Amnesty International and Human Rights Watch. Given the vast amount of literature on the preparation of the genocide, the present report will not focus on all aspects of the process. It is sufficient to say that the whole State apparatus and the militia of the ruling party were involved in mass killings and an estimated 500,000 to 1 million people were killed between April and December 1994. Instead, this report will focus on the part of the preparations for the genocide which attempted to mobilize action against Tutsi women and, therefore, served to justify violence against them.

18. One of the leading tools of propaganda for Hutu extremism was the newspaper Kangura, with a relatively small circulation but actively supported by powerful government and military personalities. On 10 December 1990, Kagura published the Hutu "Ten Commandments". The first commandment stated:

"1. Every Muhutu should know that a Mututsi woman, wherever she is, works for the interest of the Tutsi ethnic group. As a result, we shall consider a traitor any Muhutu who:

- marries a Tutsi woman
- befriends a Tutsi woman
- employs a Tutsi woman as a secretary or concubine."

The second commandment read:

"2. Every Muhutu should know that our Hutu daughters are more suitable and conscientious in their role as woman, wife and mother of the family. Are they not beautiful, good secretaries and more honest?"

The third commandment read:

"Bahutu women, be vigilant and try to bring your husbands, brothers and sons back to reason."

19. It is extraordinary that the first three commandments of the Hutu "Ten Commandments" should relate to Tutsi women. Human Rights Watch, during its fact-finding mission on violence against Rwandan women during the genocide, also comments on this remarkable factor, the enormous propaganda against Tutsi women during the period leading up to the genocide. 5/ The sexual construction of Tutsi women as seductive spies is found in all Hutu militant literature. Such literature also emphasized that Tutsi women were considered arrogant and more beautiful than Hutu women. When the killings and the mass rapes took place, this propaganda served its purposes. Many Tutsi women were raped and humiliated and told that they were too proud and arrogant. The perpetrators of the genocide must take responsibility for the enormous hatred mobilized against Tutsi women which allowed the most inhumane acts of sexual violence to take place.

20. The status of women within Rwandan society generally exacerbated the violence inflicted against Rwandan women on such a large scale. According to the Rwandan National Report to the Fourth World Conference on Women, one fifth of Rwandan women are subject to domestic violence by their male partners, although women's groups who spoke with the Special Rapporteur were convinced that the numbers were much greater. The problem of maternal mortality has also been highlighted, as 63 per cent of deaths among women in 1993 were due to inadequate health care related to reproductive matters. 6/ Women's participation in the National Assembly never rose above 17 per cent and women constitute 5.26 per cent of the government executive and 3.2 per cent of local government officials. 7/

21. The greatest area of discrimination against women, however, is national laws relating to land ownership and economic empowerment. Women in Rwanda cannot inherit land, nor are they eligible for credits and loans. Neither can a wife engage in commercial activity or employment without the express authorization of her husband. Such blatantly discriminatory legal provisions resulted in the total impossibility of economic empowerment of women genocide

survivors who cannot inherit their dead husband's land or property. As Human Rights Watch noted, "Most female genocide survivors have little education, lack marketable skills and are often denied access to their husband's or father's property because they are women." 8/

22. The problem is accentuated by the fact that following the genocide, there exist a large number of female-headed households. Women's groups in oral testimony and groups such as Human Rights maintain that women constitute 70 per cent of the Rwandan population and that 50 per cent of the households are headed by females. 9/ However, the United Nations Population Fund (UNFPA) carried out a survey with a sample size of 19,000 persons and, on this basis, claims that only 34 per cent of households in Rwanda are currently headed by females, as opposed to 21 per cent in 1992. According to the survey, the majority of the Rwandan population is female and for every 100 women there are 87 men. UNFPA points out that the results of the survey may differ from prefecture to prefecture, depending on the intensity of the genocide. UNFPA agrees, however, that female-headed households have lower economic status than male-headed households. 10/

23. The socio-demographic survey also highlights another factor, namely widowhood. According to the survey, "Data on divorce, separation and widowhood suggest that there has been considerable marital instability in Rwanda. Two per cent of males aged 12 and above report that they have been widowed, while 14.5 per cent of women are widows. Considering only those aged 21 and above, 22.5 per cent of the women are widowed compared with only 3.7 per cent [of the] males." 11/ Consequently, it is obvious that the situation of war widows poses a major challenge for Government and society in Rwanda.

24. Another statistic which may help understand the present crisis for women in Rwanda is that only 43.6 per cent of the female population are literate as compared with 50.5 per cent of men. 12/ These low literacy figures are of concern for women who now find that they have to become economically empowered to head their households and to work for their children. Unemployment does not appear to be a problem since most people work the land and, therefore, do not register themselves as unemployed. Women too work the land and agriculture remains the principal occupation. Ninth-five per cent of the women and 88 per cent of the men work in agriculture. It is in this context that women's inability to inherit land is a particular problem. The Ministry on Gender, Women and Social Affairs assured the Special Rapporteur that a draft law empowering women to own land and take out loans was in its final stages of elaboration and would be brought to Parliament in the course of the next few months.

II. THE GENOCIDE: WOMEN VICTIMS OF VIOLENCE 13/

The case of Bernadette

25. Bernadette was a Benedictine nun from Butare. She has given up the order since her experience during the genocide. She lived with 30 nuns, the majority of whom were Tutsi, in the convent. Nine of the nuns were killed during the genocide. When the genocide began in April 1997, many Tutsis sought refuge in the convent since it was believed that the Church grounds

would be safe. The Mother Superior, Gertrude, who was a Hutu, informed the military that the Tutsis were taking refuge in the convent. Subsequently, the military and the Interahamwe arrived and ordered all the Tutsis to remain inside. A few days later they returned with machetes and other instruments, killing for the whole day. Some Tutsis were told to dig large holes and the dead bodies of their comrades were thrown into the pit. Others who were still alive also jumped into the pit to avoid the machetes.

26. Some of the Hutu nuns joined in the massacre. One gave paraffin to the Interahamwe who used it to burn some of the remaining Tutsis alive. During the massacre, the Tutsi nuns and their families had hidden in their private cells and as a result many escaped the massacre. The Mother Superior consequently wrote to the bourgmestre, despite the pleas of the Tutsi nuns that their families be allowed to remain in the convent. The very next day, the Interahamwe, armed with machetes and other instruments, killed the families of the Tutsi nuns in front of their eyes. Those who gave money to the Interahamwe in an attempt to buy their freedom were shot; those who did not were killed with machetes and thrown into the toilets.

27. Bernadette escaped to Belgium with the Mother Superior, where Bernadette tried to file complaints about the violations of human rights committed by the Hutu nuns. She testified that the Church did not support her but that instead attempted to make all the surviving nuns sign a document testifying to the Mother Superior's innocence. It appears that the Church was worried about the implications of the massacre for the order and, as a result, Bernadette decided to leave the order and return to Rwanda.

The case of Monique

28. When the genocide began, Monique ran into the forest with her six-year-old daughter. The Interahamwe found them and raped her and the child repeatedly. Monique was six months' pregnant. The baby that was born from the pregnancy was abnormal. Her six-year-old daughter was badly affected by the rape and Monique's uterus was damaged and she has developed diabetes. Her husband is dead and she has very little ability to take care of both children. Monique went to testify in Arusha against the perpetrators of the genocide but when she returned, she found that people had left stones and pepper under her door with a note, "You are also a killer, because you accuse others". She was since chased out of her rented house. Although the Tribunal is assisting her in finding another place to live, it seems to be lacking the necessary resources.

The case of Denise

29. Denise had just married when the genocide began. She told us that the Interahamwe came to her house and killed her husband. They also beat her badly, a machete gashed her arm and she was injured by grenade fragments. A Hutu friend took her to the hospital and registered her as his Hutu wife. The doctor, however, recognized her and told everyone that she was a Tutsi. Consequently medical care was denied to her and she was asked to leave the hospital. Denise returned home but in view of the dangerous situation prevailing at that time she sought refuge in the forest. By now the wound in

her arm had started to develop gangrene. In the forest, Denise spent her time eating berries and the most hearty meal she had was three uncooked potatoes, which she slowly ate over the period of a month.

30. Denise told us that, at that stage, maggots had infested her wound and she had no choice but to remove her own arm by pulling it off, without any anaesthetic or medical care. When the RPF found her in the forest, the stump on her arm was still covered with maggots and lice. She was taken to a Red Cross hospital and has since had to undergo three operations to shorten her arm further to stop the gangrene from spreading.

The case of Jeanne

31. When the genocide began, Jeanne took her Bible and went to pray at the church with her friend. At the entrance to the church, Jeanne met one of her neighbours with two other men. Her neighbour, whose wife, she knew, had AIDS, told her: "I have AIDS and I want to give it to you." He then raped her, right in front of the church, even though she was pregnant. The other two men also raped her afterwards.

32. Jeanne survived the genocide, but now she has AIDS. The lesions have begun developing and she is wracked with pain. Jeanne told us that she visits a health centre but she does not have money for any medication, nor are the centre's supplies adequate. There are many women like Jeanne who survived the genocide only to be left with AIDS.

The case of Donatilla

33. When the genocide began, a journalist named Ruyenzi came to Donatilla's house with a group of men to rape her. Two of the men kept her legs apart while the journalist, using rusty scissors, cut her genitalia. Her clitoris was cut and her labia were mutilated. Her aggressor then displayed the cut genitalia in public for everyone to see. Donatilla told us that the journalist is now in jail but that she is persecuted and threatened by his family. She moves from place to place, frightened of meeting some of the other perpetrators who are still wandering around freely.

The case of Marceline

34. Marceline lived in the commune of Taba, Gitarama. When the genocide began, her house was burnt down and she fled with her family to a place where she had heard that people were shot and not killed by machetes - which Marceline considered a more dignified way to die. The Interahamwe rounded up her family in a big house, killed all the men and stripped the women naked. Marceline and the other women were made to dig graves to bury the men. The Interahamwe also took their children and threw them into the pit, asking their mothers to bury them alive. "I will never forget the sight of my son pleading with me not to bury him alive. He kept trying to come out and was beaten back. And we had to keep covering the pit with earth until they were suffocated and no movement was left."

35. The Special Rapporteur and her team listened to countless testimonies of sexual violence committed against women during the genocide and the above are

only an illustrative sample. The types of sexual violence recounted in these stories were of rape and gang rape, sexual slavery, torture, mutilation, murder and forced marriage. The Special Rapporteur was taken to schools and churches where the skeletons of the victims of the genocide remain in place as a reminder for those who have been left behind. People were subjected to the most inhumane kinds of treatment and the killings were carried out by State officials, militia, soldiers and neighbours. There was simply no escape.

36. The health problems of genocide survivors are a major concern for the Special Rapporteur. Although rapes occurred on a scale and many women had major injuries to their reproductive organs; there are only five gynaecologists in the whole of Rwanda. Most women victims also do not report their ailments to medical professionals or attempt traditional treatments since their shame does not allow them to speak of the atrocities committed against them. In view of the Special Rapporteur, health services seemed insensitive to women's needs, and only after constant questioning did health officials admit that sexual violence required a very specialized medical approach. It appeared that health services in Rwanda are not able to deal with problems of sexual violence although they are prepared for cases of general injury such as treating wounds caused by grenade fragments, bullet wounds, machete cuts, amputations and scars. The Special Rapporteur considers, however, that the health professionals with whom she spoke were responsive to the need for special programmes for victims of sexual violence.

37. The psychological traumas were outlined to us by experts working in the field. Depression was widespread among women after the genocide. According to one psychologist, 80 per cent of those who come to see him are women and 50 per cent of them are under the age of 25. Many have psychosomatic disorders such as palpitations, nausea, insomnia and frigidity. They appear to be suffering from a loss of identity with no memory, no rules to guide them and no standards to live by. They harbor enormous feelings of hatred and revenge. For many women these problems are exacerbated since, with their husbands dead, they are left with the full responsibility for their own lives and the lives of their children. The vast majority were raped and have enormous psychological problems as a result. They talk freely about the rape but will not risk going to courts of law. Most of the women are very courageous but it is an enormous task to rebuild their lives and their communities after the genocide.

III. THE IMPUNITY: PUNISHING THE PERPETRATORS

38. Having heard the testimonies of so many women victims of sexual violence, the Special Rapporteur was absolutely appalled that the first indictment on the grounds of sexual violence at the International Criminal Tribunal for Rwanda (ICTR) was issued only in August 1997, and then only after heavy international pressure from women's groups. There are no cases of sexual violence before the national courts in Rwanda. The discrepancy between the reality that women faced during the genocide and the present lack of prominence - some might say invisibility - of sexual violence cases before both international and national courts should be a matter of serious concern to the international community. The inability of the system to prosecute and punish those who committed sexual violence is a serious indictment of the system as a whole and the ICTR in particular.

A. The International Criminal Tribunal for Rwanda

39. The genocide began on 6 April 1994, when a plane carrying the Presidents of Rwanda and Burundi was shot down near Kigali airport, and lasted until September 1994 when the RPF claimed victory. On 8 November 1994, the Security Council, in its resolution 955 (1994), established the International Criminal Tribunal for Rwanda. Acting under Chapter VII of the Charter of the United Nations, the Security Council called upon all States to cooperate. In this context, it is somewhat disturbing that a judge in the State of Texas is reported to have released a pastor indicted by the Tribunal, Eliza phan Ntakirutimana. The Special Rapporteur is of the opinion that it is up to the Government of the United States of America to ensure that it respects its commitments under international law.

40. The Special Rapporteur noted that the Permanent Representative of Rwanda to the United Nations had voted against the resolution creating the ICTR and the annexed statute on the grounds that it did not include pre-genocide killings within the mandate. It appears that the Permanent Representative was also displeased about the Appeals Chamber and office of the prosecutor not being independent of the Office of the Prosecutor (OTP) of the International Criminal Tribunal for the Former Yugoslavia in The Hague. The Permanent Representative criticized the trials being held in Arusha, United Republic of Tanzania, and not in Rwanda and that the death penalty could not be prescribed in cases warranting such punishment.

41. Three separate articles of the ICTR statute define the subject-matter jurisdiction of the Tribunal. Article 2 calls for the prosecution of persons who are suspected of having committed genocide. Although the Office of the Prosecutor in The Hague, encouraged by the Trial Chambers, has implied that rape could be considered a measure of genocidal intent in cases relating to Bosnia and Herzegovina, neither the Deputy Prosecutor in Kigali nor the Trial Chamber in Arusha has yet broached the topic. In informal conversations with the Special Rapporteur in Arusha and Kigali, members of the prosecution stated their intention to put forward this argument during the course of the trials. However, the indictments do not contain any such language. The Special Rapporteur is disappointed that the issue of forced pregnancy, which could constitute an element of genocide under article 2 (d) and (e), has also not been raised. In the case of Rwanda, it appears overwhelmingly that sexual violence constituted an integral part of the genocide, as evidenced in the testimonies of genocide survivors. The fact that this is not reflected in the proceedings at the ICTR is a serious setback for the prosecution of sexual violence at the international level.

42. Article 3 of the ICTR statute defines the subject-matter jurisdiction of crimes against humanity. Article (3) (g) specifically mentions rape as a crime against humanity. The statute also specifies that for rape to be considered a crime against humanity, it must be "a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds". "Torture" and "enslavement" are also mentioned in article 3. The Special Rapporteur was informed during her visit to Arusha that prosecutors and judges have begun to address rape as a crime against humanity. However, the Special Rapporteur regrets that they have not been as creative in their endeavour as their counterparts at the ICTY, where rape has

been interpreted to constitute torture and enslavement, as well as a crime against humanity on its own. This leads to the conclusion that the ICTR treats victims of sexual violence as "second class citizens", compared to its counterpart in The Hague.

43. Perhaps the most revolutionary section of the ICTR statute is article 4, which outlines the elements which may constitute a war crime under common article 3 of the Geneva Conventions addressing internal conflicts. Many commentators are of the opinion that grave breaches of the 1949 Geneva Conventions do not apply to internal conflict. However, according to the ICTR statute as adopted by the Security Council, the following are prohibited in internal conflicts:

(a) Violence to life, health and physical or mental well-being of persons, in particular murder, as well as cruel treatment such as torture, mutilation or any other form of corporal punishment;

(b) Collective punishment;

(c) Taking of hostages;

(d) Acts of terrorism;

(e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

(f) Pillage;

(g) The passing of sentences and carrying out executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

44. Article 4 is a landmark in the evolution of international law, prohibiting many of the same acts as those considered to be grave breaches of the Geneva Conventions concerning international armed conflict and applying those norms to internal conflict. The drafters of the statute should also be congratulated for explicitly mentioning rape and enforced prostitution as being prohibited under international law even in internal conflicts.

45. The Special Rapporteur wonders why, despite the existence of an extensive legal framework for action with regard to rape and sexual violence during the genocide, only very few individuals have been charged with these crimes. Why has the creative jurisprudence developed at the ICTY in The Hague not left its mark at the ICTR? The Special Rapporteur had extensive discussions with the Office of the Prosecutor of the ICTR in Kigali, especially with the Deputy Prosecutor, who was only recently appointed. His predecessor had not indicted anyone on charges of rape or sexual violence.

46. The new Deputy Prosecutor, however, was very forthcoming and regretted the fact that the OTP had not been pro-active on the question of rape. He assured the Special Rapporteur that he had taken a number of measures to

address crimes of sexual violence. The Deputy Prosecutor held two workshops with international experts to sensitize OTP staff on the issue of sexual violence, its investigation and its prosecution. He also established a special task force, the Sexual Assault Team, for the purpose of charging and investigating sexual violence. The Sexual Assault Team consists of three officers, as well as one psychologist, one nurse, two lawyers, two policewomen and a policeman. The Deputy Prosecutor explained that the Team prepared rape victims for testimony, worked together with non-governmental organizations, accompanied witnesses and victims to the ICTR in Arusha and provided a safe and secret half-way house for witnesses in Kigali. The Deputy Prosecutor was convinced that, as a result of these innovations, the situation at the ICTR with respect to victims of sexual violence would improve. At the time of the visit of the Special Rapporteur, there were two individuals charged with sexual violence crimes, one being Jean-Paul Akayesu.

47. The Deputy Prosecutor, however, also cited certain structural defects which influence the effectiveness of the measures in place. It appears that many of the prosecutors are young, without specialized training in dealing with cases of sexual violence. It is also feared that with the trials taking place in Arusha and the prosecution being located in Kigali the ICTR in Arusha may discriminate against the OTP in Kigali, especially as regards resources. The Deputy Prosecutor claimed that the OTP should be the main responsible entity especially with respect to the issues of witness and victim protection.

48. The improvements made by the OTP in Kigali are laudable, but there appear to be three substantial reasons why there are so few prosecutions for sexual violence. The first reason is that the OTP is not pro-active. The Sexual Assault Team does not go out and investigate or search for cases of sexual violence; rather, women victims or potential witnesses must approach the OTP. Only if, in the investigation of other offences, sexual violence emerges as an issue does the Team pursue the leads. This limited approach results in only a few cases coming to the attention of the Office of the Prosecutor.

49. The second reason is that women seem hesitant to come forward with their testimonies. It was explained that their "culture" and traditional upbringing prevent women from speaking openly about such private matters. The Special Rapporteur, however, seemed to have no problem eliciting information and testimonies from victims and witnesses. Whilst culture may prevent women from speaking out, the Special Rapporteur had the impression that, encouraged and supported by women's organizations, women victims of violence seem to believe that speaking is cathartic and may in fact lead to justice. The Special Rapporteur, therefore, wonders why women are so afraid to go to the ICTR in Arusha. Non-governmental organizations and legal academics with whom the Special Rapporteur spoke were of the opinion that the investigation strategy employed by the OTP is culturally insensitive, as are many investigators.

50. The Special Rapporteur noted that there seems to exist a cultural wall between the victims and witnesses on one hand, and the investigators on the other. Exacerbating the problem is the fact that, until not long ago, all investigators were male. Representatives of non-governmental and women's organizations claimed that the exact words to describe some sexual acts do not exist in Kinyarwanda so that concepts and ideas are difficult for victims to

express. Skilled investigators with a better understanding of Rwandese culture are therefore needed. This is an important consideration to be borne in mind when recruiting individuals as investigators.

51. The third reason, and perhaps the most important one, for the dearth of sexual violence cases before the ICTR is that many women are frightened of repercussions and reprisals. The Victims and Witness Protection Programme of the ICTR was strongly criticized by non-governmental and women's groups, as well as by some victims who had testified before the Tribunal. The attention of the Special Rapporteur was drawn to the fact that two witnesses who had testified in Arusha actually were killed. Many women victims whom the Special Rapporteur interviewed stated that they were afraid to travel to Arusha because they did not have confidence in the protection scheme.

52. The Special Rapporteur also had extensive discussions with members of the Victims and Witness Protection Unit (VWPU) of the ICTR in Arusha. It was argued that although the programme had not functioned in the past, many improvements had been made. It appears that a sexual assault team within the VWPU has been established to address the needs of women victims who do come to Arusha. The head of the Unit maintained that when witnesses were brought to the trial in Arusha, they are housed in a safe location, have access to doctors, psychologists and medical care, receive in-house catering and are under 24-hour surveillance. Their material needs are provided for, including clothing and comfort, and a special effort is made to give emotional support. The post of Gender Adviser within the Registrar's Office has been specially established to address the aspect of emotional support for women who have come to testify. The Adviser speaks the local language and appeared to be sympathetic to the witnesses' concerns.

53. Non-governmental and women's organizations, however, were deeply sceptical of the innovations undertaken in Arusha and claimed that the strategy employed by the VWPU might appear sensible in theory but that in actual fact the witnesses were not well looked after. There was no psychologist in place and the medical services provided to the victims were far inferior to those available to accused persons in detention.

54. Concern was also voiced that the main problem with witness protection was not in Arusha but in Rwanda, upon the witnesses' return. Non-governmental organizations were extremely worried as many witnesses had been threatened and one or two killed. It was felt that Arusha is rather remote from events in Rwanda and that the VWPU should be relocated to Kigali in order to undertake extensive and effective arrangements for the protection of witnesses upon their return. It was also pointed out that in some cases, when witnesses travelled from Rwanda to Arusha, they had been asked to fill out departure cards with their names and addresses, which are available as public records to anyone.

55. The VWPU claimed that the two deaths in Rwanda referred to above were matters unrelated to testifying at the ICTR. At the same time, the VWPU recognized that the problem of witness protection in Rwanda is a difficult one. Attempts are being made to relocate witnesses within Rwanda but, in view of the very closed society, relocation may not work. The VWPU suggested that special schemes for the most threatened witnesses to be relocated outside

Rwanda should be explored. It appears that an appeal had been made to this effect in an attempt to identify potential receiving countries, but that the international community had not responded. Fear about immigration formalities coupled with financial implications and the security of the people involved were cited as possible reasons for such reluctance. The VWPU, however, firmly believes that international protection must be mobilized if the international community is to ensure the security of the most threatened witnesses.

56. The VWPU was equally unhappy with allegations from non-governmental organizations that the Unit is not functioning properly. It was felt that the real situation had been distorted. Yet, non-governmental organizations with which the Special Rapporteur met in Kigali were very clear that the inability of the VWPU to protect witnesses in Rwanda was one of the main reasons why women are reluctant to come forward. The Special Rapporteur considers that a serious re-examination of the victims and witness protection scheme must be undertaken, together with the non-governmental organizations that work with women victims, in order to develop strategies for confidence-building among women.

57. In this connection, the establishment of a sexual assault team within the VWPU is a welcome development and the appointment of a Gender Adviser within the Registrar's Office in Arusha is also a step in the right direction. The Special Rapporteur noted that the Gender Adviser, who had been in office for only a few months, was very enthusiastic and her tentative plans involved not only the development of a counselling programme but also economic empowerment projects for the women concerned. The Special Rapporteur considers, however, that such a position may prove to be more useful in Kigali since this would create closer links to victims and witnesses.

58. Despite the enormous threat to women victims of violence and women witnesses, the ICTR has not really developed procedures concerning witness incognito, as provided for in rule 75 of the Rules of procedure and evidence (ITR/3/Rev.1). The first victim of sexual violence, "JJ", testified in October 1997, at the time of the Special Rapporteur's mission. The Special Rapporteur was able to observe that whilst her name and identity were concealed from the public, she was in full view of the defence. The witness also apparently told members of the Tribunal that the defendant had directed some contemptuous gestures at her whilst the proceedings were in progress. It is for these reasons that legal academics have argued that, in certain contexts, it may be necessary to keep the victim's identity from the defendant. The Court should consider such suggestions or, alternatively, hold proceedings in camera through image or voice-altering devices, as suggested in rule 75. 14/

59. With regard to evidentiary procedures, the Special Rapporteur welcomes rule 96 of the Rules of procedure and evidence, entitled "Evidence in Cases of Sexual Assault", which states:

> "In cases of sexual assault:
>
> "(i) ... no corroboration of the victim's testimony shall be required;

"(ii) consent shall not be allowed as a defence if the victim

"(a) has been subjected to or threatened with or has had reason to fear violence, duress, detention or psychological oppression or;

"(b) reasonably believed that if the victim did not submit, another might be so subjected, threatened or put in fear.

"(iii) before evidence of the victims's consent is admitted, the accused shall satisfy the Trial Chamber in camera that the evidence is relevant and credible;

"(iv) prior sexual conduct of the victim shall not be admitted in evidence.

60. These provisions, paralleled in the Rules of procedure and evidence of the ICTY (IT/32/Rev.3), is a welcome addition to international jurisprudence and should serve as a model for national legislation on sexual assault.

61. The administration of the ICTR raises some difficult and important concerns. On 12 February 1997, the United Nations Office of Internal Oversight Services (OIOS) released a report which was strongly critical of the administration and management of the ICTR (A/51/789, annex). The report found that "not a single administrative area of the Registry ... functioned effectively" (paragraph 9). In criticizing the accounting and management procedures, OIOS claimed that United Nations procurement rules had been ignored and that personnel had been appointed without the necessary qualifications. It also strongly criticized the Office of the Prosecutor in Kigali. It claimed there was a serious leadership crisis, low morale and marked ineffectiveness. It pointed out that there existed a dearth of senior criminal trial lawyers and that prosecutors did not have a strategy for prosecution.

62. Since this devastating report, a new Registrar in Arusha and a new Deputy Prosecutor in Kigali have been appointed. The Special Rapporteur considers that both personalities have made important changes. At the same time, both implied that the United Nations is not providing the ICTR with its full support, evident in the serious lack of qualified administrative and legal personnel in both the Registrar's and the Prosecutor's Offices. The Special Rapporteur is of the opinion that, in view of the fact that Arusha and Kigali are hardship posts, certain incentives would have to be offered to attract qualified staff. It appears that other United Nations agencies, such as UNDP, have programmes to this effect. It is understandable that qualified staff are willing to be assigned to Arusha and Kigali on mission status but will not even consider long-term employment. These are serious considerations to which the international community needs to pay close attention.

63. The ICTR Registrar claimed that financial resources were adequate but that the preceding administration had mismanaged funds and that corruption and incompetence, as alleged by the OIOS, had in fact affected the system. In addition, the Special Rapporteur noted that, despite recent improvements, the

communication infrastructure in Arusha is truly problematic: there are only two telephone lines and e-mail and the Internet were only just being introduced. There is an urgent need to set up a communications infrastructure that will allow the ICTR to function in a modern, professional manner.

64. The Special Rapporteur also noted that the administrative staff constantly drew comparisons between the ICTY and the ICTR, and there was a strong feeling that the ICTR did not receive the attention that it deserves. It should be pointed out, however, that the location of a tribunal in Arusha as opposed to The Hague naturally makes a difference with regard to provision of a support structure and recruitment of qualified personnel. Nevertheless, more must be done to assist the administration of the ICTR if the Tribunal is to carry out its mandate efficiently.

65. The Government of Rwanda and many victims of the genocide are somewhat disillusioned with the ICTR. In 1996, three Tribunal investigators in Kigali were beaten up and Prosecutor Louise Arbour was faced with street demonstrators during her May 1997 visit to Kigali. 15/ Frustration about the working of the Tribunal has lessened its credibility in the eyes of many Rwandans seeking justice. This position was reiterated to the Special Rapporteur time and time again by non-governmental organizations and victims. The Special Rapporteur hopes that the changes already made by the ICTR, the appointment of a new Deputy Prosecutor and Registrar, and the establishment of the Victims and Witness Protection Unit will make a marked improvement in the work of the Tribunal.

66. The Special Rapporteur, during her mission, also called on some of the judges serving on the Tribunal. They seemed extremely interested in the issue of sexual violence but pointed out that not many cases had been brought before them by the prosecution. It was also noted that, among the legal assistants working with the judges, there was not one specialist on sexual violence. It seems that the cause of sexual violence at the ICTR is in a double bind. First, the general lack of competent professionals is common to all cases which appear before the Court. Second, none of the legal professionals, either in Arusha or Kigali, who are responsible for prosecution and assisting in drafting judgements has expertise in the field of sexual violence. As a result, very few cases are actually prosecuted. Hopefully, the establishment of a sexual assault task force at the OTP will bring about some changes. The Special Rapporteur also suggests that among the legal assistants in the judges' chambers at least one should have experience in matters concerning sexual violence.

B. The national trials

67. In August 1996, the National Assembly of Rwanda passed a law creating special courts with exclusive first instance jurisdiction to try people accused of genocide. Under the Genocide Act, "sexual torture" is characterized as a category 1 offence. Such offences carry a mandatory death penalty. The Genocide Act also permits confessions to be introduced as part of a controversial provision allowing for plea-bargaining. 16/ The scope of judicial review is limited to issues of law and flagrant errors of fact. The

Genocide Act raises disturbing human rights issues: the use of the death penalty, the limited possibilities for appeal and retroactive provisions create the impression of strong, if not Draconian, legislation.

68. Within this legal context, not a single case of sexual violence has been charged before the courts. When the Special Rapporteur asked both the Prosecutor and the Minister of Justice why, the answer was again that women do not come forward because of Rwandan culture. This was a widespread belief among male prosecutors and investigators. However, the Special Rapporteur found that women speak quite easily, if there is a sympathetic response. They also speak freely to other women.

69. The Ministry of Justice is the most important agency with regard to national genocide trials. In the Rwandan system, both prosecutors and judges are referred to as magistrates and come under the jurisdiction of the Minister of Justice. (The Arusha Accords had called for a High Judicial Council, independent of the executive, to appoint and nominate judges.) If sexual violence cases have not been brought, the onus is therefore on the Ministry of Justice to explain why. In his dialogue with the Special Rapporteur, the Minister of Justice was very frank. He pointed out that after the genocide, the judicial infrastructure in the country was in total disarray. The main priority of the Government has therefore been to recruit and train individuals to allow them to function as judges and lawyers. All other matters must await the development of this infrastructure.

70. A United Nations report found that, in May 1996, only a small minority of the 258 judges and prosecutors in Rwanda had legal backgrounds and that those selected had been given only 4 months' training. In addition to having no personnel, the Ministry of Justice lacks resources. The need to refurbish courtrooms, provide material assistance to investigators, collect a library to replace the law books destroyed during the genocide and train personnel is overwhelming. Some donor countries have come forward to assist in these matters, but the Government of Rwanda still considers infrastructure-building as its most important priority. The Minister promised that his Ministry will, over time, develop a special programme on sexual violence, including trained women investigators, and that the first steps in that direction had already been taken.

71. The early trials conducted by Rwandan national courts had some disturbing results. The trial of Deogratias Bizimana and Egide Gatanzani was one such example. The accused were not provided with lawyers and seemed unaware of their right to counsel. The accused did not present any defence witnesses, nor did they seem aware of trial procedures. Participants were not allowed to speak in the language of their choice, courtroom decorum was lacking and the accused were booed and jeered throughout the proceedings. The trial lasted about four hours, and the accused were sentenced to death.

72. In the view of the Special Rapporteur, the biggest obstacle to a fair trial is the lack of defence lawyers. It appears that the non-governmental organization Avocats sans frontières has been providing assistance in some cases but, given the number of cases awaiting trial, this can only be a short-term solution. 17/ If justice is to be served in the national courts, then trained defence lawyers should be a first priority. The Rwandan bar was

only created in the latter half of 1997 and has only a few members at present. Nevertheless, it is a beginning, and a widespread awareness-raising campaign on legal rights and on the need for young people to be trained as lawyers may be necessary before a dynamic bar is created. Until then, justice in the national courts will be under a cloud and trials run the risk of being condemned for violating international standards of due process.

IV. CURRENT SITUATION OF WOMEN VICTIMS OF VIOLENCE

A. General

73. As mentioned above, according to many researchers and activists it is owing to deeply rooted Rwandan culture and tradition, the low status of women in society and a deep sense of privacy that women victims of violence are extremely reluctant to speak out about the traumatic experiences that they have suffered. It is only recently, three years after the genocide and with the realization that their testimonies are needed in order to secure justice, that the women of Rwanda have started to tell their stories.

74. In addition to the social stigma attached to being a rape victim or a victim of sexual violence, many women bear permanent physical scars, deformities and health problems, including HIV/AIDS. The Ministry of Interior, Communal Development and Resettlement has tried to overcome these barriers by trying to convince local authorities, through information and awareness-raising campaigns as part of the reconciliation process, to actively involve women in rebuilding society by participating in income-generating projects. Another project of the Ministry, which addresses shelter needs, consists of constructing houses in a new communal setting on shared land, called habitat regroupé, especially for children and women heads of households. The Special Rapporteur noted that hesitation was expressed concerning this innovative style of living which is contrary to Rwandan culture in which each house has its own land. The Ministry of Commerce, for its part, is helping women survivors to participate in cooperative ventures to become financially self-sustaining.

75. One of the major obstacles to women's economic and social empowerment is that, particularly in urban areas, the widows of the genocide have only their husbands' house and property, the ownership of which is subject to the claims of the husbands' families. The Special Rapporteur noted that the Ministry of Interior, in cooperation with UNDP, had finished constructing 100 new houses for survivors, but which are only available for those who can pay the approximately US$ 8,000 cost. This leaves out most women, especially considering that widows of the genocide receive a pension of only US$ 100 from the Government.

B. Medical and psychological status

76. In discussions with the Director of the Health Programme at the Butare Trauma Clinic, the Special Rapporteur was able to gain an understanding of the general psychological and mental status of the survivors of the genocide three years later. The method used at the Trauma Clinic to help survivors is "community focused", with the objective of creating a "support chain" within the community. Much emphasis is also placed on group therapy.

77. It was emphasized that the unique characteristic of the post-conflict period is that everyone, regardless of race, ethnicity or sex, suffers the consequences of the genocide and is riddled with insecurities and mutual suspicions. This in turn generates fear - fear of being killed, of being confronted with one's persecutors and of reprisals. Such fear, in particular in women, leads to severe depression which manifests itself in various forms, including sadness, lack of energy and courage, feelings of uselessness and contemplation of suicide. Psychosomatic manifestations include chronic stomach problems, palpitations, nausea, insomnia and loss of appetite. Women victims of sexual violence also might react either by manifesting sexual apathy or, at the other extreme, engaging in substance-abuse and promiscuity. In any case, the perceived loss of identity is perhaps the most challenging psychological problem to be overcome. It was explained that women in particular have difficulties in facing this problem which is exacerbated by their low status in society and the discrimination against them.

78. Suppressed feelings of hatred are another consequence that genocide survivors face. The desire to take revenge, which cannot be expressed or acted upon in view of the national effort to achieve reconciliation, turns to anger which may be directed at oneself and generate a feeling of culpability, which then turns into depression. It was emphasized that the situation of women in the post-conflict period is especially difficult, firstly because of the great responsibility most of them bear for other survivors, such as their children and relatives, and secondly because the burdens of the wounds caused by the genocide are mainly carried by women, most of whom were raped or sexually humiliated and have to live with their traumatic memories. It is estimated that 7 to 8 out of 10 women survivors have physical scars or wounds or suffer from physical or psychological health problems. The Special Rapporteur heard the story of one woman who had been forced to walk naked for 30 kilometres and now still feels humiliated whenever she meets people who saw her then.

79. The psychological and medical consequences on women victims of sexual violence have deeply affected women's self-confidence and self-esteem. Many women survivors, including some interviewed by the Special Rapporteur, were sexually mutilated by having had a breast cut off, acid thrown on their genitals, or their reproductive systems permanently damaged as a result of large objects forced into their vaginas or due to the sheer number of times they had been raped. Other bodily damage that the Special Rapporteur was able to observe was swollen stomachs, permanently tilted heads where machetes had not succeeded in cutting the women's head off and missing limbs. All these deformities and internal injuries make many women doubt, if not deny, their womanhood and cause very serious psychological problems.

80. Other women whom the Special Rapporteur interviewed stated that the physical damage pales in comparison with the traumatic experiences they had to undergo, such as burying their own child alive, flushing a newly born baby down a toilet or having intercourse with their own sons. Doctors also pointed out that serious psychological harm was created by confining victims in small, dark rooms, closets and toilets for long periods.

81. In the face of the incredible psychological trauma that these women are experiencing and considering that Rwandan women are slowly starting to speak

out, the Special Rapporteur urges all United Nations agencies in Rwanda to initiate and fund programmes targeted at the psychological and social rehabilitation of women victims of violence. At the same time, the Special Rapporteur cautions that it is essential to work towards women's long-term empowerment and self-reliance and to avoid women becoming chronically dependent on support.

82. In 1996, the Ministry of Health, in cooperation with the Ministry of Gender, Women and Social Affairs, and funded by the World Health Organization and the Government of Italy, initiated a comprehensive health project with a budget of US$ 295,000, in response to the finding that women and girls suffered the most during the genocide as a result of being victims of sexual violence, sexual abuse and rape. The objectives of the project are:

(a) To improve the access of women victims to medical services;

(b) To create national networks of women victims of violence;

(c) To increase the technical capacity of the health personnel;

(d) To encourage women to make use of the health services available to them;

(e) To raise funds in support of women victims of violence;

(f) To increase the availability of medical equipment and medication, especially for women victims of violence.

83. In order to achieve these objectives, a number of concrete activities had already been undertaken within the framework of the project, such as a seminar to train trainers for health service providers (in February 1997), the dissemination of information on violence against women through the radio, newspaper articles and interviews, and fund-raising for medical supplies. The project is well under way and whilst the doctors that the Special Rapporteur spoke to were enthusiastic about its further development, they also expressed their disappointment at the delayed intervention of the international community in the aftermath of the conflict. It was remarked that the World Health Organization should have started such a project in Rwanda over three years earlier.

84. In cooperation with WHO, the Ministry of Health is also operating a National Trauma Centre in Kigali, established in 1995, which provides an integrated mental and social rehabilitation programme based on public health principles for survivors of the genocide. The Trauma Centre, through its national and international staff, provides professional counselling and has outreach teams in all prefectures and, in its social programmes, is supported by the Ministry of Gender, Women and Social Affairs. The Ministry of Health also sponsors an HIV/AIDS Counselling Centre where free testing and counselling are available and the right to privacy respected. The Special Rapporteur was informed that approximately 25-30 per cent of the population in Kigali is HIV+, a figure which did not seem to have changed drastically after the genocide. In the countryside, however, a certain increase in HIV infections was observed after 1994. The Special Rapporteur was deeply

concerned at the lack of medication available for persons with HIV/AIDS, and especially for women survivors who were infected through rape and sexual violence during the conflict. All HIV+ women victims that the Special Rapporteur interviewed stated that they did not have enough money to buy any medication to treat symptoms associated with HIV infection.

85. From her discussions with the Minister of Health, the Special Rapporteur was shocked to learn that there are only approximately 170 doctors (of whom 125 are in public hospitals and only 30 are female) and only 5 gynaecologists in the whole country. Most of the 34 hospitals and 300 health centres in Rwanda are managed by "comprehensive nurses" and traditional birth attendants. The Special Rapporteur considers the absence of gynaecologists a particularly severe problem in view of the many medical consequences affecting women victims of violence in the post-conflict period.

86. During her visit to Kigali Central Hospital, the Special Rapporteur noted that no statistics exist on the medical conditions of women victims of violence after the genocide and that most medical interventions and care are undertaken on an ad hoc basis without any systematic follow-up treatment. The scarcity of hospitals and the lack of medical professionals in Rwanda is compounded by the fact that medical care is not entirely cost free. This results in missionary hospitals rather than public hospitals treating over 60 per cent of the Rwandan population. In this light, the Director of Kigali Central Hospital urged that health insurance schemes be initiated at the community level by women's associations and the Ministry for Gender, Women and Social Affairs and that a nationwide survey of the health status after the genocide be carried out to determine priority needs for action. In her discussions with doctors, the Special Rapporteur was somewhat disturbed by the fact that the seriousness of the gynaecological problems that women victims of sexual violence face after the genocide was not quite grasped, especially as compared with other physical and psychological damage.

V. WOMEN IN PRISONS AND DETENTION CENTRES

"It was pouring down with rain and the door to the women's cachot, only one narrow door amongst many in the wall of a long row of mud houses, was barely visible. As we stepped into a pitch-black hole, I nearly fell over as my feet stepped on legs, arms and women's bodies crouched together so tightly on the wet earth that no space was left for standing. My eyes slowly adjusted themselves to the permanent darkness and I saw the women, with their children, living in a room measuring not more than 5 by 8 metres, with no window and no light. The smell of dampness mingled with the unbearable stench of urine, sweat, dirty clothes and body heat.

"I thought I was going to suffocate as the women prisoners slowly started gathering around us, abandoning the baskets they were weaving to pass time. Many of them had spent nearly two years in these conditions of unbelievable overcrowding and atrocious sanitary conditions. Once the interpreter explained the purpose of our visit, the women prisoners began talking and shouting at once: that they had not received any soap for some time and no sanitary napkins for months; they were not allowed outside the cachot at all, except for going to the toilet accompanied by

a male prison guard; they had to wash themselves in one corner of the small cell, divided off by a towel, with rainwater; they only received one meal per day or sometimes none, and that they had to gather rainwater which seeps through holes in the roof or through the airhole to have enough to drink. They also asked us what we are going to do for them?". 18/

87. The genocide in Rwanda was sadly characterized by a new phenomenon which has not been observed in any armed conflict in history, namely the massive involvement of women as perpetrators of the violence. Survivors testify that not only did women take part in the general violence and fighting during the conflict, but were also actively involved in committing violence against other women, including acts of sexual violence. The Special Rapporteur considers this to be a very disturbing development which should be appropriately dealt with in order to avoid repetition.

88. In view of the number of women who participated in the genocide and who are consequently being held in prisons and in detention centres awaiting trial, the Special Rapporteur decided also to study the conditions of women in custody during her mission to Rwanda. For this purpose, the Special Rapporteur visited Kigali and Butare Central Prisons, as well as one cachot or detention centre in Taba, and received briefings from HRFOR detention officers on the subject.

89. According to data provided by HRFOR, there are 126,216 persons detained in Rwanda at present, the vast majority of whom are charged under the Genocide Act. In the 19 central prisons in Rwanda, 2,687 prisoners out of a total of 77,349 (or 3.7 per cent) are women. HRFOR has also registered 158 cachots or gendarmerie brigade detention centres around the country, where approximately 3.4 per cent of inmates are female (1,585 women out of 48,867).

90. In Butare Central Prison, at the time of the visit of the Special Rapporteur, there were 240 women and 17 children out of a total of 6,364 prisoners. Many of the prisoners, both male and female, had spent up to three years in detention, in substandard conditions, the majority of them without any official charges brought against them yet. The women were housed with their children in a separate wing on one side of the prison. The prison director explained to the Special Rapporteur that Butare Prison provided relatively good conditions for women prisoners since they all had their own place to sleep and did not have to sleep in shifts as in many overcrowded prisons in the country. The Special Rapporteur was also informed that a total of 30 women worked outside on the prison grounds during the day but that no other occupational activities were provided for women prisoners. It was also reported that women detainees were allowed only one outing per week of five or six minutes into the courtyard.

91. The Special Rapporteur was concerned specifically about the sanitary conditions for women and their children and generally about the cohabitation of children with women in an already overcrowded area. She was informed that no officials or local health authorities monitor the sanitary conditions and that the supply of soap and sanitary napkins was irregular. These facts were contrary to the information provided by the Minister of Health, who stated that the regional directors of the Ministry in each prefecture had been asked

to appoint one doctor in charge of prisons whose duty it would be to monitor sanitary conditions in prisons and detention centres. At the same time, in view of the extreme shortage of medical professionals in Rwanda, the Special Rapporteur is not surprised that such directives cannot be implemented. In addition, the Special Rapporteur was disconcerted to discover that approximately 60 to 70 mentally ill persons were detained in the same facility as other prisoners, without any special medical attention and notwithstanding the fact that, in accordance with international standards, persons who are found insane shall not be detained in prisons and are to be moved to mental institutions.

92. In Kigali Central Prison, with a capacity of 2,000, there were 576 women out of 6,454 prisoners in total. Of the 576 female prisoners, 572 had been charged under the Genocide Act and were awaiting trial while three others had been sentenced. (The remaining woman was arrested for a common crime.) Compared to other prisons and detention facilities that the Special Rapporteur visited, conditions for women detainees in Kigali Central Prison were relatively bearable. Although prisoners had unregulated access to a courtyard within their compound, there were not enough bunks for everyone to sleep so that makeshift beds had been created on the floors. General medical services and social assistance were available to women prisoners but no gynaecologist. HRFOR detention officers also reported that women sometimes gave birth in prisons without any medical attention. The Special Rapporteur noted with concern that apparently the ICRC had stopped delivering sanitary napkins one month prior to the Special Rapporteur's visit and no action had been taken in that regard. Hygienic considerations are extremely important in closed settings where many women live together with their children in order to avoid the spread of infections and diseases.

93. The Special Rapporteur was encouraged to see that all the guards in the women's section were female and that occupational activities, such as sewing classes, were offered to prisoners in the Kigali prison. No incidents of sexual or physical violence were reported in the women's compound. The Special Rapporteur is, however, concerned that all the women detainees she interviewed spoke of the widespread and regular physical and sexual violence which they had suffered in cachots or detention centres before coming to Kigali Central Prison. These observations were confirmed by HRFOR detention officers who spoke of violence and sexual harassment of women by law enforcement officials during the arrests and detention in cachots.

94. Detention conditions and the functioning of prisons and detention centres are regulated by Ordonnance No. 111/127 on the Service pénitentiare of 30 May 1961, which provides clear rules on the basis of which persons can be brought to prison legally and on how to register committed persons upon arrival. According to data gathered by HRFOR, approximately 65 per cent of all detainees have a dossier, that is to say a file, which still does not necessarily mean that they have been charged legally. This leaves over 35 per cent of the prison population in Rwanda without any legally substantiated reason for being detained. One of the first priorities, therefore, in addition to improving prison conditions, should be to ensure that all prisoners are legally charged with an offence on the basis of reliable evidence and that those against whom charges cannot be brought are

released from prison unconditionally. The need to take urgent steps to remedy this situation was recognized by the Attorney-General in his discussions with the Special Rapporteur.

95. According to chapter VI.C. of the regulations referred to above, all prisoners held in cachots or in communal cells have the right to two 30-minute outings or periods of physical exercise per day within the prison compound. The Special Rapporteur was, however, surprised to learn that not only were these regulations not adhered to in the least but that some of the prison directors she talked with were not even aware of such a provision.

96. In view of the above observations, the Special Rapporteur would like to make a brief reference to internationally recognized guidelines governing conditions of persons in detention, as contained, inter alia, in the Standard Minimum Rules for the Treatment of Prisoners, in the Basic Principles for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In this context, from the brief visits of the Special Rapporteur to prisons and detention centres in Butare, Taba and Kigali, it is evident that *all* internationally recognized standards are violated across the board. Whilst the Special Rapporteur realizes that the observance of individual provisions of internationally accepted standards for the treatment of prisoners might be an impossibility and will change little in view of the complete destruction of the administrative structure of the justice system in the country, she urges the Government of Rwanda to ensure that at least some key principles are complied with, including:

(a) The full registration of all prisoners upon arrival at prison;

(b) An individual place to sleep for each prisoner;

(c) Adequate and clean sanitary installations, baths and showers;

(d) Regular supply of toilet articles, including soap, toothpaste and sanitary napkins;

(e) Availability of drinking water at all times;

(f) Daily access to the open air for at least one hour;

(g) Regular access to the services of health professionals, including gynaecologists;

(h) Adequate medical treatment, if necessary.

97. The appalling conditions of prisoners in Rwanda cannot be ignored, not by the Government of Rwanda nor by the international community. The Special Rapporteur urges all relevant actors to assist the Government of Rwanda in its willingness to achieve the humanization du régime pénitentiare.

VI. UNITED NATIONS OPERATIONS AND AGENCIES IN RWANDA

98. During her mission to Rwanda, the Special Rapporteur was invited to participate in the weekly meeting of heads of United Nations operations and agencies, with a view to briefing the agencies present on the objective of her mission and to learn about initiatives undertaken by the United Nations in relation to her mandate. The Special Rapporteur was rather disappointed at the lack of a concerted United Nations strategy and/or programme to deal with violence against women in Rwanda. The Special Rapporteur recognized that while individual agencies have some projects targeted at the basic needs of women, she regretted the incomprehensible absence of any programmes supporting women victims of violence by any United Nations agencies and operations present in Rwanda.

99. The Special Rapporteur was informed of the existence of a Thematic Inter-Agency Group on Women and Gender and is pleased to note that since her mission to Rwanda and after her discussions with UNDP and HRFOR in particular, the Thematic Inter-Agency Group has planned some activities addressing the human rights of women and women victims of violence. It has been proposed that HRFOR, UNICEF, the United Nations Development Fund for Women (UNIFEM), UNDP and UNHCR, in cooperation with the Ministry of Gender, Women and Social Affairs, engage in advocacy and training to promote women's and children's rights, train leaders of women's associations and sensitize the community on the legal status of women and on respect and recognition for women's participation in social and economic activities. HRFOR is also proposing to organize a gender-training workshop for law enforcement officials, focusing in particular on violence against women as a violation of international human rights law, in Kigali, Butare and Kibungo.

100. Another project to be implemented by UNICEF, in cooperation with the Ministry of Gender, Family and Social Affairs and the Ministry of Finance and Economic Planning, is the development of a matrix of indicators to monitor the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. A multiple-indicators survey to establish regular programme monitoring would support the Ministry of Planning to coordinate social statistics and would provide data and statistics on the economic and social situation of women and children, with a view to evaluating progress made in policy development and programme planning and implementation.

101. The Thematic Inter-Agency Group also coordinates the implementation of programmes aimed at the political and economic empowerment of women, capacity-building through skills development for women, assisting women in the resettlement process, and providing food security and education for women. The Special Rapporteur was also encouraged to note that activities in the area of general and reproductive health of women also included the treatment of women victims of violence.

A. Human Rights Field Operation in Rwanda (HRFOR)

102. In her discussions with the Acting Chief of HRFOR, as well as in a meeting with human rights monitors from different prefectures, the lack of financial and political support for the operation was cited as one of the

major obstacles to the effective implementation of HRFOR's programmes. With regard to concerns related to the Special Rapporteur's mandate, she noted with concern that HRFOR monitors had not received any training in monitoring, recognizing and reporting gender-based violations of human rights. It also appeared that there was not one human rights officer with gender expertise at HRFOR. The periodic reports of the operation did not reflect any gender-disaggregated data in their findings and none of the ongoing projects of HRFOR addressed the issue of violence against women or women victims of violence specifically. The Special Rapporteur was informed that the activities of the Genocide and Vulnerable Groups Unit that had been established within HRFOR had to be suspended for lack of resources. Many of the women's organizations with whom the Special Rapporteur met stated they had either sought or hoped for substantive legal and rights-based assistance and support from HRFOR in their activities but that such collaboration or a more permanent form of cooperation had never been established.

103. In her open and enlightening discussions with HRFOR staff, the Special Rapporteur realized that all the above-mentioned shortfalls are due not least to the logistical difficulties and lack of support received from OHCHR in Geneva under which HRFOR staff are working. Short-term contracts in stressful mission conditions without any career incentives and professional development training opportunities inevitably result in a very high turnover in staff and a lack of institutional memory and continuity, all of which have direct repercussions on the programmes and activities of the operation.

104. The Special Rapporteur is encouraged that on a new level of cooperation with the Government of Rwanda, each ministry had agreed to appoint two persons as human rights focal points to liaise permanently with HRFOR. From her discussions with the Minister of Gender, Family and Social Affairs, the Special Rapporteur had the impression that, whilst the Minister appeared to have been disappointed with past interactions with HRFOR, she expressed her willingness to explore possibilities of strengthening programmes and strategies focused on the human rights of women in collaboration with HRFOR.

105. Following reflections that now, three years after the emergency in Rwanda, the High Commissioner for Human Rights is critically reviewing the mandate of HRFOR, the Special Rapporteur urges that gender issues be mainstreamed in all activities of the operation and that specific technical cooperation projects assisting women victims of violence be implemented. Whilst the Special Rapporteur strongly holds that HRFOR's unique mandate of monitoring the situation of human rights in Rwanda, which creates an important degree of accountability for the Government, must not be abolished, it must be acknowledge that HRFOR is also in a position to extend technical cooperation and advisory services to the Government in an effort to prevent further violations of human rights.

106. At the same time, in her discussions with the Minister for Foreign Affairs, the establishment of a national commission for human rights, as provided for in the Constitution, appeared to be one of the priorities for which the Government was requesting support from HRFOR. HRFOR could also provide legal awareness training to the general public, the judiciary and law enforcement officials as well as to non-governmental and women's organizations working with women victims, thereby helping to instil a "culture of human

rights" in Rwandan society. In addition, legal aid and political support for projects initiated by women's organizations are possibilities to be explored. The Special Rapporteur would also urge HRFOR to take an active part in the Thematic Inter-Agency Group on Women and Gender and to cooperate in the many ongoing and planned projects.

B. United Nations Development Programme (UNDP)

107. The Special Rapporteur was informed that UNDP has increased its efforts to mainstream a gender perspective in its programmes and has, inter alia, focused on women survivors in its reintegration programmes, has involved women in income-generating activities and is planning to assist in the dissemination of the revised laws relating to rights of women when they are enacted. These measures are undertaken with the longer-term objective of involving women in local decision-making. Furthermore, UNIFEM has initiated a project for training trainers for trauma counselling of women survivors.

108. Most interesting, however, seemed the UNDP justice programme which was launched to provide for the most basic needs in the face of a totally disintegrated justice system. Amongst the basic emergencies that the justice programme had addressed in 1996/97 was the improvement of prison conditions for women detainees. UNDP was responsible for the building of two new prison wings for women, with a total capacity of 500, with basic hygiene and sanitary facilities, including access to water at night. The Special Rapporteur was also informed that in 1998 the justice programme would focus on providing free legal services for both women victims and perpetrators, train prosecutors and sensitize judges on the human rights of women.

C. Office of the United Nations High Commissioner for Refugees (UNHCR)

109. The Special Rapporteur had fruitful discussions with the UNHCR Representative in Kigali and the newly appointed Regional Adviser for Refugee Women, both of whom agreed that the provision of gender training for UNHCR staff and the effective involvement of women in the implementation of programmes were the primary problems to be addressed. For example, in a reconciliation programme conducted in Kibungo camp, out of 80 participants only 4 were women, despite the generally accepted proposition that women are more open to any reconciliation and peace-building efforts in the post-conflict period. Traditional attitudes and women's low status in society are said to be the principal obstacles to their more active participation in such programmes. The Special Rapporteur emphasized the importance of legal awareness training for refugee women since such knowledge and the resulting self-confidence gained in camps would prove invaluable to women when they return home and try to rebuild their lives.

110. With regard to violence against refugee women in camps, the Special Rapporteur was informed that incidents of rape and sexual violence that had occurred in the past years had largely been brought under control and that only occasional reports were received from the field. In particular in Ngara camp, a high incidence of rape as part of increased general violence had been reported and, despite police stations being established within the camp, law and order never had a significant impact on events in the camp. In such violent settings, it is inevitable that women and children suffer most. At

the same time, it was emphasized that the sexual violence and rapes committed in camps were seemingly not part of a systematic strategy of violence targeted specifically against women but rather isolated occurrences. An exception was the establishment of brothels, managed by refugees themselves, in Goma camp in the Democratic Republic of the Congo, where women refugees were involved in commercial sexual exploitation. The Special Rapporteur was shocked to learn that whilst UNHCR had tried to close down the establishments, it appeared that government authorities of the Democratic Republic of the Congo, possibly with vested interests, had granted operating licences to such bars and businesses.

111. Another concern raised by the Special Rapporteur was that although all camps have counselling facilities for refugees, specialized rape counselling was not provided in the camps in the region. The Special Rapporteur was therefore, encouraged to learn that one of the first priorities of the Regional Advisor for Refugee Women was to ensure that psychological help and counselling would be available to all refugee women victims of violence. It was also stated that facilities available to refugee women in camps depended largely on the initiative of the officers in that camp and, therefore, a more systematic provision of women-oriented services should be aimed at.

112. The Special Rapporteur was particularly interested to hear about the UNHCR resettlement projects all over the country, where UNHCR finances the building of houses for returnees. Whilst no ownership certificate or deed is issued for the house, the bourgmestre or local authority decides who can live there. The Special Rapporteur was encouraged to learn that apparently local authorities are also willing to allocate houses to single female heads of household. The more long-term benefits of resettlement projects for women, however, are dependent on the pending legal reform of outdated ownership and property rights, in particular relating to women, as well as on land reforms. The Special Rapporteur also hopes that the funds raised by UNHCR within the framework of the Rwandan Women's Initiative will be fully utilized to empower women returnees through economic and social stability.

VII. NON-GOVERNMENTAL ORGANIZATIONS

113. The Special Rapporteur visited the Clinic of Hope (Policlinique de l'Espoir) in Kigali, a medical centre providing counselling and medical care for women victims of violence. The Director of the Clinic is developing a project for a "one-stop" centre for women survivors in each prefecture where they could receive legal advice, medical and psychological care and social assistance in one place. Funding possibilities, training of qualified staff and infrastructure for such centres were being developed in cooperation with the Ministry of Gender, Women and Social Affairs, the organization Haguruka and possibly with HRFOR. The Special Rapporteur strongly encourages this comprehensive project which addresses women victims of violence, and calls on all United Nations agencies to support this initiative.

114. The organization AVEGA (Association des veuves du genocide) also supports women survivors of the genocide and offers a comprehensive treatment for women victims of violence, widows and orphans. The programme comprises health services, including trauma counselling, social assistance, income-generating activities, legal assistance and the building of housing. Another women's association called Barakabaho works through a local church and with

missionaries to bring together women survivors who are in need of financial and also moral support. The Special Rapporteur visited a gathering of women at Barakabaho and listened to testimonies of women victims of violence. When asked how the women cope with the horrors they suffered during the genocide, they smiled and replied that the solidarity amongst women survivors and the chance to sing together gave them strength and hope. It is for these reasons that the Special Rapporteur commends all women's groups in Rwanda which work tirelessly and with meagre resources to build a support network for women survivors.

115. During her visit to Taba, in the prefecture of Gitarama, the Special Rapporteur met with representatives of SEVOTA (Structure d'encadrement des veuves et des orphelins dans la commune de Taba), an association which assists widows and orphans of the genocide in a resocialization process including by providing psychological, social and economic support. SEVOTA aims to create a culture of peace and community solidarity for women survivors, most of whom are victims of violence, by establishing networks amongst women and organizing discussion groups and cultural and recreational activities. SEVOTA also brings together 121 local organizations, such as ASOFERWA (Association de Solidarité des Femmes Rwandaises), which construct peace villages for vulnerable groups in all parts of Rwanda and use these villages as the basis for socio-economic rehabilitation and national reconciliation. Other measures undertaken entail improving the livelihood of widows and children and achieving integrated development and self-sustainability for target communities. Haguruka is another established women's association providing, inter alia, legal support for women survivors.

116. The Women's Network for Rural Development (Reseau des femmes pour le développement rural) has counselling centres for women survivors in Taba, Ginkongoro, Kibuye and other parts of the country, which provide free medical assistance to women victims and specialized medical attention to women victims of rape. At the same time, the Network undertakes to disseminate provisions relating to rape under the Genocide Act and is lobbying for legal reform to bring social justice and equality to women through the law. The Network had also started carrying out a survey to draw a socio-economic profile of the status of women in Rwanda after the genocide. This initiative is very important since it is only on the basis of an analysis of the real situation that effective measures can be taken.

117. The Special Rapporteur also met with representatives of PROFEMMES, an umbrella organization established in 1992 comprising 35 women's associations in Rwanda. PROFEMMES supports women survivors and orphans but also brings together women's groups formed in exile and organizes seminars to encourage women of all ethnic groups to cooperate in a "culture of peace". One of the successful PROFEMMES projects which the Special Rapporteur visited was the Nelson Mandela Peace Village where Hutu and Tutsi women live in newly constructed houses in a small community with shared facilities. Another innovative programme operated by PROFEMMES is the organization of women in a cooperative in order to improve credit and lending facilities for women, of which there exists only one in the whole country, through cooperative ventures similar to the "Gramin" bank micro-credit scheme for women entrepreneurs.

118. The Special Rapporteur also had the occasion to visit the Club mamans sportives which is an association providing support mainly to the women from the marginalized ethnic group of the Btwa. Literacy courses and sewing classes, as well as peace marches on Sundays, are some of the ways in which the Club hopes to create solidarity and unity amongst Hutu, Tutsi and Btwa women in Rwanda.

VIII. RECONCILIATION, DEMOCRACY AND POWER-SHARING

119. On 10 December 1997, Hutu militia raided a refugee camp of Tutsi men, women and children and killed 271 people. 19/ According to the same report "thousands of unarmed Hutu civilians have been killed by RPF soldiers during counter-insurgency campaigns in the North West". According to human rights monitors in the field, at least 6,000 lives have been lost since May 1997. If Rwanda is enjoying a measure of peace, it is a tenuous peace which is constantly in a state of crisis. The Special Rapporteur is of the opinion that violence generally, and violence against women in particular, will not cease in Rwanda unless there is reconciliation and power-sharing among the two major communities. Only a political solution to this problem will bring lasting peace after so many years of a deadly war.

120. The Government or Rwanda is committed to the Arusha Accords which provide a solution to the present crisis involving democracy and power-sharing. Government spokesmen and parliamentarians pointed to the fact that this was a transitional Government, pending the implementation of the Accords. However, there was very little evidence to indicate that the transitional Government was moving towards democracy and accommodation with the Hutu majority. Unless this process of reconciliation is actively pursued, there will not be any end to the fighting in Rwanda. The numbers being killed are increasing and a military solution is impossible. The Special Rapporteur strongly believes that the only solution is power-sharing within a democratic framework. It is hoped that the Government of Rwanda will move to fully implement the Arusha Accords and bring about genuine reconciliation. Unless the Government of Rwanda is ready to accelerate the process of nation-building and power-sharing, the violence will continue and another genocide cannot be ruled out.

IX. CONCLUSIONS AND RECOMMENDATIONS

A. At the international level

121. There is a belief among Rwandese people that the United Nations and the international community allowed the genocide to take place and took no action to prevent it despite the fact that reports from United Nations bodies and agencies had outlined the dangers. In this context, an apology from the Secretary-General of the United Nations expressing regret that the genocide took place and that the United Nations was unable to respond to the genocide in a timely manner will go a long way to assuage the disillusionment and mistrust among Rwandan survivors of the violence. It will also signal the commitment of the United Nations to the Rwandan nation-building process and the implementation of human rights within Rwanda.

122. The international community should take some radical measures to ensure the effective functioning of the ICTR in Arusha. The General Assembly should appropriate long-term financing for the Tribunal, ensure that qualified personnel are given the opportunity to work there with adequate incentives. The secondment of specialists and experts for long-term contracts should be of immediate concern to the international community.

123. All States should cooperate with the Tribunal. States should assist in gathering evidence and in arresting and transferring all individuals indicted by the Tribunal.

124. The Victims and Witness Protection Programme of the ICTR should be reviewed by a team of international experts and appropriate action should be taken to ensure that witnesses feel confident enough to testify. The international community should consider relocating prime witnesses outside Rwanda, which would require the cooperation of all members of the international community.

125. The Office of the Prosecutor should be aided in its present attempt to pursue sexual violence cases. A prosecutor with specialization in sexual violence crimes would be a most welcome addition to the prosecution team.

126. The Tribunal should be given adequate communications infrastructure so that it can pursue its work with a measure of competence. The international community must ensure that the Tribunal has an appropriate number of telephones, fax machines and computers, as well as e-mail and Internet infrastructure. A needs assessment by the new Registrar should be compiled and submitted to the Security Council. This will allow the Tribunal to communicate effectively with counterparts throughout the world and enhance the dissemination of information by the Tribunal.

127. The ICTR should consider using the witness incognito provisions of the Rules of procedure and evidence to enable witnesses to testify without fear or reprisals.

128. There should be a closer connection between the sexual violence experts in the Office of the Prosecutor in The Hague and in Kigali so that sexual violence indictments are pursued in the Rwandan context.

129. The Deputy Prosecutor's Office should be more proactive in the area of investigations of sexual violence. It should work closely with non-governmental and women's organizations to identify victims and urge them to come forward and testify at the trials. Personnel who are sensitive to the nuances of Rwandan culture and who speak the local language should be included in the investigation teams.

130. The Deputy Prosecutor's Office should be more creative in its indictments with regard to sexual violence. As at the ICTY in The Hague, sexual violence should be seen not only as rape but in certain contexts should be seen as torture, enslavement and genocide. Since this question is currently being addressed at the international level, the strategies at the ICTY in The Hague and at the ICTR in Kigali should be integrated and complementary.

131. The ICTR, including the Deputy Prosecutor's Office in Kigali, should improve its relationship with the Government of Rwanda. The dialogue between Tribunal officers and the Government of Rwanda should be enhanced so that differences may be ironed out, confidence built and better relations maintained.

132. The Office of Public Relations of the ICTR should be more proactive so that cases of particular interest, including sexual violence cases, are afforded more publicity and that information is more widely disseminated. Indictments and other information should be put on an ICTR Website so that there is international access to the information coming out of the Tribunal, similar to the Website of the ICTY.

133. The large international donor community operating in Rwanda has not focused specifically on the issue of violence against women. A combined task force of individuals from all the donor agencies to deal with the issue of sexual violence and its consequences for health, economic empowerment, educational opportunity and training is an urgent necessity since the issue has had low priority on many of the agendas of international donors.

134. The mandate of HRFOR should be revised bearing in mind the exigencies of time with a view to a dual role of monitoring and technical assistance:

(a) The Office of the High Commissioner for Human Rights should critically evaluate the possibilities for providing support for the establishment of a national human rights commission in Rwanda;

(b) HRFOR, in cooperation with UNDP, should finance the building of new prisons and detention centres, in order to alleviate the inhuman conditions prevailing in central prisons and cachots in Rwanda, on the basis of an agreement with the Government of Rwanda that new space is not to be used as an excuse to detain more people without any legal basis;

(c) Employment conditions for HRFOR staff must be stabilized and career opportunities created in order to ensure efficiency, quality and continuity;

(d) Human rights monitors should receive adequate legal training, including gender sensitization and reporting on gender-based crimes.

135. All United Nations agencies should initiate programmes and support local organizations working for the psychological and social rehabilitation of women victims of violence.

136. HRFOR, UNDP and UNIFEM should implement programmes targeted at women victims of violence, including legal awareness training and free legal counsel.

137. All United Nations agencies should design programmes specifically aimed at providing economic and social support for women victims of violence, including income-generating activities, scholarships for their children, medical care, social assistance and food distribution.

138. International non-governmental and professional organizations should provide legal and medical personnel "on loan" to judicial institutions and hospitals in Rwanda; training of local professionals or paralegal or paramedical personnel should be carried out by international staff.

B. At the national level

139. The Government of Rwanda should implement the Arusha Accords. Reconciliation and power-sharing between the Hutus and the Tutsis are the only alternative which will help create a political solution to a seemingly intractable problem. A military solution is not possible and will result in a vicious cycle of violence which could accelerate into a renewed genocide. The Government of Rwanda must move speedily in the direction of democracy and power-sharing.

140. The Government of Rwanda should stop all arbitrary arrests, which are the reason for prison overcrowding. Detainees without cases filed against them should be released unconditionally. Prison overcrowding should be alleviated, especially in the cachots where conditions are deplorable, through the building of prisons.

141. The process of investigation and prosecution with regard to the perpetrators of genocide must be conducted according to international human rights standards. Detainees should be informed of their rights to a fair trial, including, inter alia, the presumption of innocence, the right to cross-examine witnesses and the right to counsel. A pamphlet setting out these rights in the national language may be useful for the process.

142. The Government of Rwanda should call upon the international community to assist it in the training of lawyers and members of the judiciary. In the interim a fund should be set up that would allow foreign lawyers to come and represent defendants in the genocide trials. The international community should take a lead in the training of judges and lawyers to ensure that Rwanda's national courts and the judiciary generally maintain due process standards. Judges should also act to maintain decorum in the trial courts so that undue pressure is not brought on the participants at a trial.

143. The Genocide Act of Rwanda should be amended to meet international standards including the right of the court to consider mitigating circumstances and to allow a full right of appeal. In addition, confessions should be investigated by the court to determine whether torture had been used and, if so, the confession should be made inadmissible. Rape should be recognized as a form of torture. The Government of Rwanda should ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

144. The Ministry of Justice and the national prosecutors must prosecute cases of sexual violence. Not one case has been prosecuted in the courts of law. It is important that the Ministry of Justice and the national Prosecutor's Office have a clear strategy for the filing of sexual violence cases. In the interim, international experts on sexual violence could be hired as consultants to assist the Prosecutor's Office in investigating cases of sexual violence and in planning prosecution strategies. The Prosecutor's

Office should work with women's organizations to identify victims and witnesses to bring this issue before the courts. For those interested in confronting impunity for crimes of sexual violence, such follow-up action is an absolute priority.

145. There should be an interministerial task force whose primary concern should be sexual violence during the genocide. The Ministry for Gender, Women and Social Affairs should take the lead, in cooperation with the Ministry of Health, in developing programmes addressing the consequences of sexual violence. The fact that there are only five gynaecologists in the whole country is a serious problem in Rwanda when a large part of the population is suffering from problems affecting their reproductive system. A mobile health unit, with an emphasis on the health of genocide survivors, including rape victims, should tour the country and treat affected persons. Many of those who came to testify before the Special Rapporteur, spoke of long-term health problems but said that they rarely visited doctors. A mobile unit would ensure that women who live in the interior are also given help and treatment. The mobile unit may also assist with problems related to HIV/AIDS, rape-related abortions, reconstructive surgery and early childhood and teenage pregnancies.

146. The international community and the Government of Rwanda must continue with special programmes aimed at empowering women economically. The problem posed by female heads of household is serious. The draft legislation which would give women equal rights with regard to land and other assets should be urgently enacted. In addition, special programmes to teach women their rights as well as training programmes to empower them economically should be carried out by all sectors, including the Government, the donor community and non-governmental organizations. This is one of the most urgent needs of the hour. Aid to women victims of genocide should be a high priority since they are often responsible for the whole household.

C. Non-governmental organizations

147. Non-governmental organizations should work to sensitize women victims on the need to speak out in order to bring perpetrators to justice and to coach women witnesses in legal procedures and in giving testimonies before courts.

148. Non-governmental organizations should monitor conditions of women in detention and provide free legal assistance for women accused of having participated in the genocide.

149. Non-governmental organizations should involve women from all ethnic groups in their local and community organizations.

Notes

1/ The testimony by "JJ" as heard by the Special Rapporteur on 24 October 1997 when observing the trial against Jean-Paul Akayesu at the International Criminal Tribunal for Rwanda, Arusha. "Interahamwe" refers to Hutu militia groups during the 1994 genocide.

2/ For a detailed description see Alain Destexhe, Rwanda and Genocide in the Twentieth Century, London, Pluto Press, 1994 and African Rights, Rwanda: Death, Despair and Defiance, London, 1994.

3/ For a general description of the process see African Rights, ibid.

4/ Ibid., p. 30.

5/ Human Rights Watch, Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath, New York, 1996, pp. 15-18.

6/ Ibid., p. 21.

7/ Ibid., pp. 21-22.

8/ Ibid., p. 23.

9/ Supra, note 5, Human Rights Watch, p. 2.

10/ Government of Rwanda, Department of Statistics, Ministry of Finance and Economic Planning/UNFPA, Socio-Demographic Survey, 19 July 1997.

11/ Ibid., p. 11

12/ Ibid., p. 8.

13/ These cases are based on first-hand testimonies collected by the Special Rapporteur during her mission.

14/ Christine Chinkin, "Amicus Curiae Brief on Protective Measures for Victims and Witnesses", in Criminal Law Forum, volume 7, Number 1, 1996.

15/ Lawyers Committee for Human Rights, Prosecuting Genocide in Rwanda, July 1997, p. 39.

16/ Ibid., p. 53.

17/ Ibid., p. 62.

18/ First-hand account of the visit of the Special Rapporteur to a women's cachot or detention cell in Taba.

19/ James C. McKinley, "Killings by Hutus frustrate hope of nation-building in Rwanda", International Herald Tribune, 23 December 1997, p. 2.

Annex

LIST OF SELECTED PERSONS/ORGANIZATIONS WITH WHOM THE SPECIAL RAPPORTEUR MET DURING HER MISSION

H.E. Ms. Aloysia Inyumba	Minister for Gender, Women and Social Affairs
H.E. Mr. Anastase Gasana	Minister for Foreign Affairs
H.E. Dr. Vincent Biruta	Minister for Health
Mr. Simeon Rwagasore	Attorney-General President, Human Rights Commission, National Assembly Vice-President, Political Commission, National Assembly
Ms. Rose Mukankomeje	President, Women's Caucus, National Assembly
Ms. Immaculé Kayumba	Member of the National Assembly
Ms. Agnes Mukabaranga	Member of the National Assembly
Mr. Théoneste Mutsindashyaka	Secretary-General, Ministry of Interior, Communal Development and Resettlement
Mr. Ephreme	Bourgmestre of Taba
Ms. Jacqueline Rusilibya	Ministry for Foreign Affairs
Ms. Urusaro Uwagaga Alice Karekezi	Independent Monitor on Gender-Related Crimes for the ICTR
Ms. Zayinabo Kayitesi	President, Haguruka
Ms. Soline Twahirwa	Executive Secretary, Haguruka
Ms. Claudine Gasarabwe	President, Dukanguke
Ms. Agnes Mukabaranga	Dukanguke
Ms. Beatrice Mutalikanwa	President, PROFEMMES
Ms. Shema Xaverine	ASOFERWA
Ms. Emerita Mukayiranga	Club mamans sportives
Ms. Mary Barikungeli	Director, Clinic of Hope

Ms. Veneranda Nzambazamariya	**Women's Network for Rural Development**
Ms. Jeanne Bushayija	**Centre for the Economic Situation of Rwandese Women**
Ms. Jane Rocamora	**Judicial Adviser, Ministry of Justice/UNDP**
Dr. Rwamasirabo	**Director, Kigali Central Hospital**
Dr. Jeanne Kabagema	**Kigali Central Hospital**
Dr. Francine Kimanuka	**Kigali Central Hospital**
Prof. Simon Gasibinege	**Health Project, Butare Trauma Clinic**

Office of the Prosecutor, International Criminal Tribunal for Rwanda (Kigali)

Mr. Bernard Muna	**Deputy Prosecutor**
Mr. Max Nkole	**Commander of Investigations**
Ms. Sharon Lowery	**Witness Liaison, Victims and Witnesses Protection Unit**
Ms. Valentina Tsoverina	**Legal Adviser**
Ms. Fadila Tidjani	**Victims and Witnesses Protection Unit**

United Nations (Kigali)

Mr. Babacar Cissé	**Deputy Resident Representative, UNDP**
Ms. Rebecca Dale	**Special Assistant to UNDP Resident Coordinator**
Ms. Rebecca Symington	**Programme Officer (Justice and Human Rights), UNDP**
Ms. Rose Rwabuhihi	**UNIFEM Programme Officer**
Mr. W.R. Urasa	**UNHCR Representative**
Ms. Armineh Arakelian	**Regional Adviser for Refugee Women, UNHCR**

Human Rights Field Operation in Rwanda (HRFOR)

Mr. Simon Munzu	**Chief a.i.**
Judge Kaplan	**Senior Adviser**

Mr. Scott Hays	Head, Security and Communication Unit
Mr. José-Luis Herrero	Service Press and Information Officer

International Criminal Tribunal for Rwanda
(Arusha, United Republic of Tanzania)

Judge Laity Kama	President of the Court
Judge Navanethem Pillay	
Judge Lennart Aspegren	
Mr. Agwu U. Okali	Registrar
Ms. Patricia Sellers-Viseur	OTP, ICTY/ICTR
Ms. Françoise Ngendahayo	Special Gender Adviser, Registrar's Office
Mr. Frederik Harhoff	Senior Legal Officer
Ms. Rosette Muzingo-Morrisson	Legal Officer
Mr. Roland Amoussouga	Chief, Victims and Witness Protection Unit (VWPU)
Ms. Sylvie Becky	Investigator, VWPU
Mr. Pierre Prospère	Prosecutor
Ms. Sara Darehshori	Prosecutor